



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
SOUTHWEST REGIONAL OFFICE

Preston Bryant
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David K. Paylor
Director

Michael D. Overstreet
Regional Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO Adams Construction Company Registration No. 32009

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1 – 1301, 1307, 1309, 1316 and 10.1 – 1184, between the State Air Pollution Control Board and Adams Construction Company for the purpose of resolving certain violations of State Air Pollution Control Board Regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Air Pollution Control Board, a collegial body of the Commonwealth of Virginia described in § 10.1-1301 and § 10.1-1184 of the Code.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Regional Office" means the Southwest Regional Office of the Department.
6. "Order" means this document, also known as a Consent Order.
7. "Regulations" means the "State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution", which have been incorporated into Title 9 of the Virginia Administrative Code (VAC).
8. "Company" means Adams Construction Company – Sylvatus Plant, 456 Wysor Hwy, Hillsville, VA 24343.

SECTION C: Findings of Facts and Conclusions of Law

1. Adams Construction Company operates a portable asphalt plant located at 456 Wysor Highway, Hillsville, VA, at Salem Stone's Sylvatus Quarry. Adams Construction Company was operates under a Stationary Source Permit to Construct and Operate amended 8-28-03.
2. On October 19, 2006, Jerry Wilson, DEQ Air Inspector, Sr., conducted a routine air compliance inspection of the Adams Construction Co. (Sylvatus site) asphalt plant. During a review of the plant operations and permit requirements, the following deficiencies were observed:
 - a. Permit condition No. 24 of Adams Construction Company's NSR permit issued 3-13-02 and amended 8-28-03, requires that the portable drum mix asphalt plant may not operate at any single temporary

site for a period in excess of 18 months without written approval from the DEQ. (9 VAC 5-80-1320 A.1.c) The relocation request was granted to Adams Construction Co. on September 23, 2003. Adams Construction Co. has been operating at this location for 37 months without requesting an extension or a change of home base. Source submitted written notification to DEQ on October 21, 2003 stating start up of the facility at this location was October 14, 2003.

3. On October 31, 2006, DEQ sent a Notice of Violation Letter (NOV No. 10-10-06) by Certified Mail-Return Receipt Requested, to Adams Construction Company, informing the Company that DEQ had reason to believe that the violations referenced in (1)(a) had occurred.
4. On November 2, 2006, DEQ received telephone correspondence from Adams Construction Company acknowledging the Notice of Violation. Source submitted Form 7 permit application for facility on October 27, 2006.

SECTION D: Agreement and Order

By virtue of the authority granted it pursuant to Va. Code §§ 10.1 – 1309 and 10.1-1316 and upon consideration of Va. Code § 10.1 – 1186.2, the Board orders Adams Construction Company and Adams Construction Company voluntarily agrees, to a civil charge of \$1,383.20 in settlement of the violations cited in this Order. Adams Construction company shall pay \$1,383.20 of the civil charge within 30 days of the effective date of this Order. Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia", delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

The payment shall include Adams Construction Company's Federal ID number and shall identify that payment is being made as a result of this Order.

SECTION E: Administrative Provisions

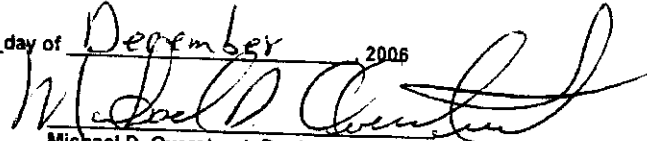
1. The Board may modify, rewrite, or amend the Order with the consent of Adams Construction Company for good cause shown by the Company, or on its own motion after notice and opportunity to be heard.
2. Nothing herein shall be construed as altering, modifying, or amending any term or condition contained in the Company's Stationary Source Permit to Construct and Operate amended on 8-28-03.
3. This Order addresses only those violations specifically identified herein. This Order shall not preclude the Board or Director from taking any action authorized by law, including, but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of Adams Construction Company as may be authorized by law; and/or (3) taking subsequent action to enforce the terms of this Order. Nothing herein shall affect appropriate enforcement actions by other federal, state, or local regulatory authority, whether or not arising out of the same or similar facts.
4. By entering into this Order, Adams Construction Company admits jurisdictional allegations, factual findings, or conclusions of law contained herein. For purposes of this Order and subsequent actions with respect to this Order, Adams Construction Company agrees not to challenge the jurisdictional allegations, factual findings, and conclusions of law contained herein.
5. Adams Construction Company consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
6. Adams Construction Company declares it has received fair and due process under the Administrative Process Act, Code §§ 9-6.14:1 *et seq.*, and the State Air Pollution Control Law, and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board or Director to enforce this Order.
7. Failure by Adams Construction Company to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

8. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
9. Adams Construction Company shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other act of God, war, strike, or such other occurrence. Adams Construction Company must show that such circumstances resulting in noncompliance were beyond its control and not due to a lack of good faith or diligence on its part. Adams Construction Company shall notify the Director, Southwest Regional Office of DEQ within 24 hours with a follow-up in writing within seven days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of this Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.


Failure to so notify the Director, Southwest Regional Office of DEQ within 24 hours of learning of any condition listed above, which the Company intend to assert will result in the impossibility of compliance, shall constitute waiver of any claim of inability to comply with a requirement of this Order.
10. This Order is binding on the parties hereto, their successors in interest, designees, and assigns, jointly and severally.
11. This Order shall become effective upon execution by both the Director or his designee and Adams Construction Company. Notwithstanding the foregoing, the Company agrees to be bound by any compliance date, which precedes the effective date of this Order.
12. This Order shall continue in effect until the Director or the Board terminates the Order in his or its sole discretion upon 30 days written notice to Adams Construction Company. Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve Adams Construction Company from its obligation imposed in this Order, shall not operate to relieve Adams Construction Company from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable

13. By its signature below, Adams Construction Company voluntarily agrees to the issuance of this Order.

And it is ORDERED this 19th day of December, 2006


Michael D. Overstreet, Regional Director
Department of Environmental Quality

Adams Construction Company voluntarily agrees to the issuance of this Order.


Rick James, P.E.
Executive Vice President
Adams Construction Company

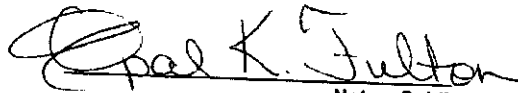
Date: 12/13/06

Commonwealth of Virginia

City/County of Roanoke

The foregoing document was signed and acknowledged before me this 13th day of
December, 2006 by Rick James, P.E. on behalf of
Adams Construction Company

Date: 12/13/06


Paul K. Fulton
Notary Public

My commission expires: 9/30/07